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LUKASZ GOTTWALD P/K/A DR. LUKE (SUED
INCORRECTLY AS LUCASZ GOTTWALD),
INDIVIDUALLY, AND D/B/A KASZ MONEY
PUBLISHING

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TOMMY DUNBAR and JAMES
GANGWER,

Plaintiffs,

vs.

LUCASZ GOTTWALD (aka Dr. Luke),
AVRIL LAVIGNE, KASZ MONEY
PUBLISHING, AVRIL LAVIGNE
PUBLISHING LLC, ALMO MUSIC
CORP., RCA RECORDS, and APPLE,
INC.,

Defendants.

No. C 07 2758 CRB

**ANSWER TO COMPLAINT BY
DEFENDANT LUKASZ GOTTWALD
P/K/A DR. LUKE, INDIVIDUALLY,
AND D/B/A KASZ MONEY
PUBLISHING**

1 LUKASZ GOTTWALD p/k/a Dr. Luke (sued incorrectly as Lucasz Gottwald), in his
2 individual capacity and doing business as separately named defendant KASZ MONEY
3 PUBLISHING ("Defendant"), by his attorneys, responds as follows to the Complaint filed in this
4 Action by plaintiffs TOMMY DUNBAR and JAMES GANGWER ("Plaintiffs"). Unless indicated
5 differently, each paragraph below corresponds with the paragraph of the Complaint bearing the
6 same number:

7 1. Defendant denies the allegations contained in Paragraph 1 of the Complaint, except
8 Defendant admits that Plaintiffs have brought a civil action for copyright infringement for which
9 they have demanded a jury.

10 **JURISDICTION AND VENUE**

11 2. Defendant denies the allegations of Paragraph 2 of the Complaint, except Defendant
12 admits that the Court has subject matter jurisdiction over Plaintiffs' Complaint. Defendant is
13 without knowledge or information sufficient to form a belief as to the truth or falsity of the
14 allegations of the third sentence Paragraph 2 of the Complaint regarding all other defendants and
15 denies them on that basis.

16 3. Defendant denies the allegations contained in Paragraph 3, and does not respond to the
17 legal conclusions contained therein.

18 **THE PARTIES**

19 4. Defendant is without sufficient knowledge or information to form a belief as to the
20 truth or falsity of the allegations contained in Paragraph 4 of the Complaint and denies them on that
21 basis.

22 5. Defendant is without sufficient knowledge or information to form a belief as to the
23 truth or falsity of the allegations contained in Paragraph 5 of the Complaint and denies them on that
24 basis.

25 6. Defendant denies the allegations contained in Paragraph 6 of the Complaint except
26 admits that Lukasz Gottwald, p/k/a Dr. Luke, is an individual who has a residence in New York.

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1 7. Defendant is without sufficient knowledge or information to form a belief as to the
2 truth or falsity of the allegations contained in Paragraph 7 of the Complaint and denies them on that
3 basis.

4 8. Defendant denies the allegations contained in Paragraph 8 of the Complaint, excepts
5 admits Plaintiffs' claim they have a lack of knowledge concerning Kasz Money Publishing, and
6 avers that Kasz Money Publishing is a name by which Lukasz Gottwald does business individually.

7 9. Defendant is without sufficient knowledge or information to form a belief as to the
8 truth or falsity of the allegations contained in Paragraph 9 of the Complaint and denies them on that
9 basis.

10 10. Defendant is without sufficient knowledge or information to form a belief as to the
11 truth or falsity of the allegations contained in Paragraph 10 of the Complaint and denies them on
12 that basis.

13 11. Defendant is without sufficient knowledge or information to form a belief as to the
14 truth or falsity of the allegations contained in Paragraph 11 of the Complaint and denies them on
15 that basis.

16 12. Defendant is without sufficient knowledge or information to form a belief as to the
17 truth or falsity of the allegations contained in Paragraph 12 of the Complaint and denies them on
18 that basis.

19 13. Defendant denies the allegations contained in Paragraph 13 of the Complaint.

20 **CLAIM FOR COPYRIGHT INFRINGEMENT**

21 **(Against All Defendants)**

22 14. Defendant is without sufficient knowledge or information to form a belief as to the
23 truth or falsity of the allegations contained in Paragraph 14 of the Complaint and denies them on
24 that basis.

25 15. Defendant is without sufficient knowledge or information to form a belief as to the
26 truth or falsity of the allegations contained in Paragraph 15 of the Complaint and denies them on
27 that basis.
28

1 16. Defendant is without sufficient knowledge or information to form a belief as to the
2 truth or falsity of the allegations contained in Paragraph 16 of the Complaint and denies them on
3 that basis.

4 17. Defendant denies the allegations contained in Paragraph 17 of the Complaint as they
5 wrongly imply that Defendant needed any authorization from Plaintiffs to create and exploit
6 “Girlfriend,” and Defendant affirmatively avers that he had no need for any authorization from
7 Plaintiffs. Defendant further denies any copying and copyright infringement of “I Wanna Be Your
8 Boyfriend.”

9 18. Defendant denies the allegations contained in Paragraph 18 of the Complaint.

10 19. Defendant denies the allegations contained in Paragraph 19 of the Complaint.

11 **AFFIRMATIVE AND OTHER DEFENSES**

12 **FIRST DEFENSE**

13 The Complaint fails to state any claim upon which relief can be granted, or is barred or
14 limited by the Copyright Act.

15 **SECOND DEFENSE**

16 Plaintiffs’ claim fails as the composition “Girlfriend” was independently created without
17 reference to the allegedly infringed composition “I Wanna Be Your Boyfriend.”

18 **THIRD DEFENSE**

19 Plaintiffs’ claim fails as they do not hold a valid copyright in and to the allegedly infringed
20 material in the composition “I Wanna Be Your Boyfriend.”

21 **FOURTH DEFENSE**

22 Plaintiffs’ claim fails because any allegedly similarity that may exist between Plaintiffs’
23 allegedly infringed composition “I Wanna Be Your Boyfriend” and the allegedly infringing
24 composition “Girlfriend” consists solely of material that is unoriginal, common and trite, and not
25 protectible expression.

26 **FIFTH DEFENSE**

27 Plaintiffs’ claim fails because any alleged use of any material from the allegedly infringed
28 composition “I Wanna Be Your Boyfriend” (which use is denied) constitutes *de minimis* use.

SIXTH DEFENSE

Plaintiffs' claim fails because any alleged use of any material from the allegedly infringed composition "I Wanna Be Your Boyfriend" (which use is denied) constitutes fair use.

SEVENTH DEFENSE

Plaintiffs' claim fails because any alleged use of any material from the allegedly infringed composition "I Wanna Be Your Boyfriend" (which use is denied) was not willful.

EIGHTH DEFENSE

Plaintiffs' claim is barred in whole or part by the doctrines of waiver, laches and/or estoppel.

NINTH DEFENSE

Plaintiffs' claim is barred in whole or part by virtue of Plaintiffs' unclean hands.

TENTH DEFENSE

Plaintiffs' claim is barred in whole or part by the applicable statute of limitations.

ELEVENTH DEFENSE

Plaintiffs have no standing to pursue this claim.

TWELFTH DEFENSE

Plaintiffs' claim is barred by the First Amendment.

WHEREFORE, Defendant Lukasz Gottwald p/k/a Dr. Luke (sued incorrectly as Lukasz Gottwald), individually, and d/b/a Kasz Money Publishing, requests an order and judgment as follows:

1. That judgment be entered in Defendant's favor and against Plaintiffs in this action, that Plaintiffs take nothing by way of their Complaint, and that the Complaint be dismissed with prejudice in its entirety;

2. For an award of costs and expenses incurred in this action, including reasonable attorney's fees, pursuant to 17 U.S.C. § 505 of the Copyright Act; and

3. For such other and further relief as the Court may deem just and proper.

Dated: August 27, 2007

SONNENSCHN NATH & ROSENTHAL LLP

By: 
DONALD M. CARLEY

Attorneys for Defendant
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